Shap Talk

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In this issue:

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TRADE NEWS:

Understanding the ADD/CVD Investigation Process and 'Critical Circumstances'

By now, we are all fully aware that the strict enforcement of U.S. trade law is a primary focus of the Trump Administration. Since 2016, the Department of Commerce (DOC) has initiated 168 new antidumping (ADD) and countervailing duty (CVD) investigations, which represents a 211% increase when compared to the number of investigations launched by the previous administration. The DOC currently maintains 484 ADD and CVD orders which are in place to protect and provide relief to American companies impacted by unfair trade.

Aside from understanding how the ADD/CVD investigation process works, it's important for importers to understand what exactly 'critical circumstances' are and how this determination can affect their business during an ADD/CVD investigation.

What are critical circumstances?

Critical circumstances arise when the DOC determines that exporters are flooding the U.S. market with imports of a product subject to an ongoing ADD/CVD investigation.

How does that impact my business?

Importers should be aware that subject merchandise entries made after the initiation of an ADD/CVD investigation may be retroactively subject to ADD/CVD. When critical circumstances exist, the DOC will instruct CBP to suspend liquidation and collect cash deposits beginning 90 days prior to the date of its preliminary affirmative determination.

Why is this done?

This is an important tool for the DOC and the U.S. International Trade Commission (ITC) to offset the import surges during the early period of an ADD/CVD investigation.

Helpful reminders:

- The language of an ADD/CVD scope is dispositive, meaning that a product will be subject to the case or not based on the description and characteristics outlined in the scope.
- The HTS is provided for convenience only! Therefore, do not rely on the HTS alone when making an ADD/CVD determination.
- Be careful ordering and shipping large quantities of a subject merchandise during an ongoing ADD/CVD case. If critical circumstances are found, ADD/CVD duties will be collected retroactively.

Shapiro is constantly monitoring new ADD/CVD investigations and checking entries filed by our customers.

If you have any questions about an investigation, please reach out to compliance@shapiro.com and we will be happy to assist.

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OFAC Inflation Adjustment of Civil Monetary Penalties

The Office of Foreign Assets Control (OFAC) is currently authorized to impose Civil Monetary Penalties (CMP) pursuant to the 5 statutes listed below. To date, the OFAC has adjusted its CMPs three times in response to inflation since the Federal Civil Penalties Inflation Adjustment Improvements Act went into effect on November 2, 2015.

The 5 statutes include:

- The Trading with the Enemy Act (TWEA)
- The International Emergency Economic Powers Act (IEEPA)
- The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)
- The Foreign Narcotics Kingpin Designation Act (FNKDA)
- The Clean Diamond Trade Act (CDTA)

The table below summarizes the existing and new maximum CMP amounts:

Statute	Existing Maximum	New Maximum
TWEA	$86,976	$89,170
IEEPA	$295,141	$302,584
AEDPA	$77,909	$79,874
FNKDA	$1,466,485	$1,503,470
CDTA	$13,333	$13,669

In addition to updating these maximum CMP amounts, the OFAC is also updating a reference to half of the IEEPA maximum CMP from $147,571 to $151,292.

The Federal Register notice published on June 14th also shows a matrix depicting the base amount of the proposed civil penalty for each category of violation in an egregious case, as well as each affected regulation.

CTPAT 2019 Conference Overview

U.S. Customs and Border Protection (CBP) held its annual Customs Trade Partnership Against Terrorism (CTPAT) conference in San Antonio, Texas from June 25 – 26.

CTPAT is one layer in CBP's multi-layered cargo enforcement strategy. Through this program, CBP works with the trade community to strengthen international supply chains and improve U.S. border security. CTPAT is a voluntary public-private sector partnership program that currently boasts 11,580 registered members.

Throughout the duration of its lifetime, the CTPAT program has had strict program oversight requirements and minimum-security criteria (MSC). Now, after 17 years, CBP has updated its MSC, and used this year's conference sessions to address the new requirements.

With almost 1,600 attendees, the sessions were jam-packed. However, Customs top personnel were in full force and willing to answer all questions posed to them. CBP also advised they will strive to issue alerts, updates, and bulletins more often on specific topics and encouraged bi-directional education from CTPAT partners.

Major conference takeaways:

- CBP expects all CTPAT partners to have evidence of implementation and process of the new MSC updated by January 2020.
- Corporate Responsibility – upper management must implement security throughout the company and have written processes and evidence of this implementation. Let everyone know your serious about security, which means making a corporate commitment and involving leadership, with representatives from all departments.
- Audit – Conduct frequent audits via your ACE account and enlist the help of outside auditors if possible.
- Agriculture is a priority. With regard to the new MSC for CTPAT, include the inside and the outside of the container in your stringent inspections. Look for insects, soil, and any type of debris.
- Wood Packing Material (WPM) – ensure it's compliant and marked per ISPM-15 regulations. This continues to be an issue and the non-compliant wood is bringing in unwanted pests. If "Pests of Concern" are discovered by CBP Agriculture, then the container will be returned/exported immediately. No separation of the non-compliant WPM will be allowed. 328 pests are found daily!
- If your ISF is not filed timely (72 hours out), your CTPAT benefits won't be realized and the shipment will be flagged.
- Must have more than one point of contact for CTPAT and everyone should know who the points of contact are at your company.
- Cybersecurity – developing 13 common sense recommendations for ALL CTPAT entities. Cyber breaches are expensive and cause major delays.
- Exams are NOT about quota, but rather about targeting! Exams are not arbitrary. Be sure MIDs are correct and you have complete product descriptions, so CBP knows what the product is.

- Instruments of International Trade (IIT) inspections must be done thoroughly and must be properly documented. Don't just take a picture and check off the box, actually take a look at the container!
- Insider threats are very real and are more common than most people think. CBP points to the following Insider Threat Video – check it out here!
- Select your business partner subcontractors carefully. They too must comply with security requirements. Many breaches were attributable to subcontractors.
- CBP will be looking at companies that are not using reasonable care. They may lose the ability to mitigate CTPAT penalties unless the company does a better job up front.

Interesting facts from the 2019 CTPAT Conference:

- Manual Garza was named the new CTPAT Program Director.
- 53% of the total value of cargo imported into the U.S. is through CTPAT members.
- 96 companies have been suspended.
- 120 companies have been removed.
- If you're a CTPAT member, the overall exam rate is 0.53 of 1%.
- Exam rate for Non-CTPAT members is 2%.
- Only 3% of all supply chain incidents involved CTPAT partners.
- 91% of all cybercrimes start with an email. That's why training for staff on cybersecurity is now a must.

CTPAT Membership is open to 12 different business entities in the supply chain:

- U.S. Importers
- U.S. Exporters
- U.S. Customs Brokers
- U.S. Highway Carriers (Canada and Mexico)
- Mexican Long Haul Highway Carriers
- Air Carriers
- Consolidators
- Third Party Logistics Providers
- Rail Carriers
- Sea Carriers
- Foreign Manufacturers
- U.S. Marine Port Authority & Terminal Operators

Program benefits include:

- Reduced number of CBP examinations.
- Front of the line inspections.
- Possible exemption from Stratified Exams.
- Shorter wait times at the border.
- Assignment of a Supply Chain Security Specialist to the company.
- Access to the Free and Secure Trade (FAST) Lanes at the land borders.
- Access to the CTPAT web-based Portal system and a library of training materials.
- Possibility of enjoying additional benefits by being recognized as a trusted trade Partner by foreign Customs administrations that have signed Mutual Recognition with the United States.
- Eligibility for other U.S. Government pilot programs, such as the Food and Drug Administration's Secure Supply Chain program.
- Business resumption priority following a natural disaster or terrorist attack.
- Importer eligibility to participate in the Importer Self-Assessment Program (ISA).
- Priority consideration at CBP's industry-focused Centers of Excellence and Expertise.

Interested in finding out more, or becoming a CTPAT partner? Contact compliance@shapiro.com for assistance!

U.S. Begins Section 301 Investigation into France's New Digital Service Tax

On July 10th, the Trump Administration announced it was launching a Section 301 investigation into France's newly passed Digital Service Tax (DST), which represents a 3% tax on total revenues generated by technology companies on an annual basis.

The Office of the U.S. Trade Representative (USTR) argues that France's additional tax unfairly targets U.S. technology companies and will explore whether or not Section 301 tariffs on certain French products are necessary. At this time, the USTR will focus primarily on U.S. companies directly affected by the duties, with the investigation being retroactive as of January 1st, 2019.

Please refer to the schedule below for all consideration and comment deadlines:

- August 12, 2019: Submission of all pre-hearing written comments due.
- August 19, 2019: Public hearing on the Section 301 Committee.
- August 26, 2019: Submission of all written comments due, including post-hearing rebuttal comments.

French officials announced they would repeal the tax if the Organization for Economic Cooperation and Development (OECD) can collectively agree upon and enforce an international tax on technology services moving forward. However, officials argue it could take more than a year for such an agreement to come to fruition.

Shapiro is proactively monitoring the situation and will provide updates as they become available.

India Slaps Tariffs on U.S. Exports

The same tit-for-tat trade mentality that has enveloped U.S. - China trade over the past year has now seeped into U.S. – India trade relations. Effective June 16th, India added 70% tariffs on 28 U.S. exports, including various chemicals, almonds, lentils and apples.

The official announcement and implementation comes nearly a year after India first threatened to impose additional tariffs in an effort to fight U.S. import duties placed on Indian steel and aluminum. However, President Trump's decision to revoke India's Generalized System of Preferences (GSP) status on June 5th, in light of India's inability to ensure the U.S. "equitable and reasonable access to its markets", has caused the Indian government to enact additional tariffs.

Historical data on the GSP program demonstrates that American companies have saved more money utilizing the program out of India than any other country. India's GSP status provided preferential treatment to nearly $5.6 billion worth of Indian exports, of the nearly $142 billion traded between the two countries annually.

It's been reported that U.S. companies importing from India will now pay in excess of $300 million in additional duties per year.

Are you worried your product might be affected by the new U.S. – India tariffs or India's loss of GSP status? Please reach out to Shapiro's compliance team today to speak to an expert!

USTR Rejects Lawmakers' Exclusion Extension Requests, Releases Site to Assist Importers with Section 301 Tariff Process

Per our Shap Flash on June 14th, members of Congress sought automatic extensions on Section 301 List 1 products that were already granted one-year exclusions by the office of the U.S. Trade Representative (USTR). The exclusions expired on July 6th, 2019, marking a one-year period since the U.S. first imposed an additional 25% duties on Chinese products on July 6th, 2018.

At this time, it is our understanding that importers will need to re-submit exclusion requests on Section 301 List 1 goods, as the USTR has yet to respond to lawmakers' requests as of the July 6th anniversary/ deadline. Please contact our compliance experts today should you need assistance in refiling your Section 301 List 1 exclusion.

Additionally, after months of confusion, the USTR recently created a website designed to help importers navigate the Section 301 Tariff process, including an HTS search tool, along with other helpful features.

For assistance in determining whether your product is eligible to apply for exclusion, the new site houses a built-in search engine to provide assistance with the following:

- Knowing Your HTS Subheading
  - ◊ Allows you to search by 8-digit HTS Subheading to obtain information about a proposed or ongoing Section 301 tariff action.
- Finding Your HTS Subheading
  - ◊ To determine if an HTS Subheading is subject to a proposed or ongoing Section 301 Tariff Action, enter the 8-digit HTS Subheading into the search field, and press SEARCH.
  - ◊ The HTS Subheadings are sorted into four separate tariff actions.
  - ◊ Each HTS Subheading includes a corresponding article description.
- Submitting a Comment or Exclusion Request Based on Your HTS Subheading
  - ◊ If the comment period or product exclusion request period is open for a tariff action, the due date will include a hyperlink that will direct you to the relevant regulations.gov electronic docket where a comment or product exclusion request may be submitted.
- Understanding Your Exclusion Status on Submitted Comments
  - ◊ To determine you product exclusion status, visit the Product Exclusion Process section on the $34 Billion Trade Action (List 1), $16 Billion Trade Action (List 2), or $200 Billion Trade Action (List 3) webpages.

Click here to view the USTR's official site.

TRANSPORTATION NEWS

Department of Transportation Announces $600 Million in Grants for U.S. Ports and Rail Infrastructure

The U.S. Department of Transportation (DOT) has announced new grants under the Port Infrastructure Development Program and the Consolidated Rail Infrastructure and Safety Improvements Program to improve infrastructure efficiency and safety at ports and rail hubs.

- **Port Infrastructure Development Program (2019)**: 1/3 of funding will go to the country's top 15 ports by 2016 volume; funding for rail improvements is focused on addressing the perennial bottlenecks in coastal areas.
- **Consolidated Rail Infrastructure and Safety Improvements Program (2019)**: This will entail safety improvements to enhance service reliability, at-grade railroad crossing and the resumption of service along decommissioned rail lines near rail hubs in California, the Midwest, Louisiana, and Florida to support regional rail networks.

The grants represent the first step in the $900 million Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants program. The program was created by Transportation Secretary Elaine Chao as a means of reinvesting in surface transportation infrastructure across the country.

The plan faces a strong headwind in the form of the country's aging transportation infrastructure. However, the U.S. has made progress in addressing its infrastructure backlog, moving from a 'D+' grade in 2017 to a grade of 'C' in 2019 (as recorded by the American Society of Civil Engineers), with bridges and roads showing marked improvement.

Transshipments Galore! U.S. Closely Monitoring Southeast Asian Exports

Per our June Shap Talk article, the quest for identifying and implementing sourcing alternatives, especially throughout Southeast Asia, was expected to intensify as U.S. importers continue to struggle with Section 301 tariffs on Chinese products. As CBP continues to grapple with rules of origin violations, both U.S. and foreign officials are beginning to heavily monitor transshipments for signs of foul play.

U.S. – Cambodia:
On June 19th, Reuters reported that multiple companies sending Chinese goods through Cambodia will receive transshipment fines from the United States. According to the U.S. embassy, "these companies are located in Cambodia's Sihanoukville Special Economic Zone."

U.S. – Vietnam:
Similarly, in an effort to maintain positive relations with the United States, Vietnam's government announced that it will begin proactively pursuing exporters avoiding U.S. tariffs via transshipments through the country.

In wake of the news that the U.S.-Vietnam trade surplus reached $45.9 billion, Panjiva, an internationally renowned trade intelligence firm, published an analysis of 400 Vietnamese products that moved manufacturing out of China due to Section 301 tariffs. In the 12 months leading up to April 2019, major companies such as Sumitomo Electric & Yazaki made large sourcing switches in both the high and low-tech product markets.

Regarding higher tech products, such as mobile phones:

- Chinese exports fell $3.67 billion year-over-year.
- Vietnamese exports rose $2.73 billion year-over-year.

Regarding lower tech products, such as furniture & electric cables:

- Vietnam has picked up 72.8% of the drop in Chinese ocean exports of furniture.
- Vietnam has picked up 43.6% of the drop in Chinese ocean exports of electric cables.

Overall Trends

Panjiva also reported that U.S. waterborne shipments have increased for the third month in a row, following the first drop in shipments in 24 months recorded back in February. Similarly, waterborne shipments are up 2.5% from 2018 and containerized freight is up 3% year-to-date.

However, shipment volumes have varied considerably by country as a result of the confusion and uncertainties surrounding the prolonged trade war with China. For example, although imports from China are down 1.6%, imports from Vietnam and India grew 19.5% and 9% respectively.

Asian imports are also trending upwards, with overall regional imports up 7.5%.

Commodity-specific data suggests import volumes have continued to decline for goods already facing heavy Section 301 tariffs, such as steel and furniture, as well as for commodity groups, including toys and garments, that have been less impacted by the previous tariffs, but that are subject to potential List 4 tariffs threatened on Chinese goods.

Panjiva's Research Director, Chris Rogers, explained that the results are an early indicator that companies are finding replacements for China, particularly in other parts of Asia, and are still meeting a strong American consumer demand, which has yet to be significantly tampered by the trade war. However, the possibility that the uptick in shipments is also partly a result of companies faking origins and altering trade routes should not be ignored.

Want more information? Shapiro's Section 301 Tariff News page can help you evaluate the impact on your supply chain and assist you in weighing various Importer Options, such as sourcing alternatives, to reduce your tariffs risk.

Abandon Ship – HMM Severs Ties with 2M Alliance, Joins THE Alliance in 2020!

Hyundai Merchant Marine (HMM) has abandoned ties with 2M alliance members Maersk and Mediterranean Shipping Co. (MSC) effective April 1st and revealed that it will become the fourth partner of THE Alliance's network instead. Beginning next year, HMM will join the vessel sharing agreement with Ocean Network Express, Hapag-Lloyd and Yang Ming, all of whom recently decided to renew and extend their cooperation efforts through 2030.

HMM announced that it will be adding more than a dozen new ships to expand its service capabilities. Additions will include:

New Vessels	Anticipated Completion Date
(12) 23,000 TEU	Q2, 2020
(8) 15,000 TEU	Q2, 2021

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So why did HMM exchange one alliance for another? Analysts have speculated that HMM must have had to make relatively large concessions, such as the procurement of additional ships, in order for its admission to THE Alliance to make sense.

Although many factors were likely weighed in the admittance decision, it is probable that it wasn't what HMM added to THE alliance – it was actually what HMM took away from the 2M alliance that made all the difference.

In that case, the decision to part ways with MSC and Maersk was more likely related to an announcement made earlier this year that the 2M Alliance would begin investing and growing cooperation efforts with ZIM, an HMM competitor, in the Trans-pacific lanes. With its acquisition of HMM, Trans-pacific services will increase from 16 to 19 within THE Alliance. However, with its loss of HMM, 2M stands to lose 3 Trans-pacific services, leaving them to compete with only 11 sailings.

Maersk CEO Wants Half Its Earnings to Come from Inland Logistics

By 2021, Danish logistics giant A.P. Moller – Maersk hopes to shift the primary source of earnings away from ocean shipping and towards inland logistics. Though containerized ocean freight currently represents about 80% of the company's earnings, Maersk CEO Soren Skou envisions a more equal split between ocean freight and inland logistics services, including warehousing, terminal operations, freight forwarding, and Customs brokerage.

Its recent purchase of Vandegrift Forwarding Company, a combined Customs broker and freight forwarder, earlier this year, as well as its increased investment in online booking solutions, highlight Maersk's drive to diversify its portfolio of logistics and supply chain services beyond its foundational business of ocean shipping.

The pivot comes as the combined result of insight gained from the financial crisis of 2008, the increasingly toxic environment for Trans-pacific trade between China and the United States, as well as the recent trend of declining margins for its ocean freight business (turnover decreased by 40% from 2011 to 2016). The company believes that its existing base of containerized ocean freight customers, which account for nearly 20% of the global market, can serve as a foundation for this realignment. With 70,000 customers, Maersk is one of the largest container carriers, however only a quarter of its customers currently use its inland services.

The move maintains Maersk's competitive position against other large carriers, such as CMA- CGM, which has also sought to diversify its position with the purchase of logistics provider CEVA Logistics and Chinese carriers COSCO Shipping Holdings and China Merchants Shipping. Such moves have led to heavy contributions into the country's "Belt and Road Initiative" through its global investments in terminals, rail linkages, and other freight infrastructure projects.

Despite the investment in inland services, Maersk may still struggle to provide sufficient support for "last mile" logistics (typically managed by freight forwarders), with its investments focused on the largest shipping hubs.

Carriers Announce Additional Blank Sailings for July

The OCEAN Alliance, including CMA (and APL), COSCO (and OOCL) and Evergreen, announced plans to remove approximately 35,000 TEUs via 3 voided sailings in its Trans-Pacific trade lane this July.

OCEAN Alliance Announced Blank Sailings (July):

	Departing Port	US Ports Set to Call
July 1	North Asia	Seattle, Vancouver
July 13	North Asia	Los Angeles, Oakland
July 15	North Asia	Seattle, Vancouver

The newest wave of cancellations follows nearly 25,000 TEUs of voided sailings in June, 10 sailings from March to April, on top of the 22 West Coast bound services and 13 East Coast bound services initially removed in February and early March in response to struggles with balancing supply and demand.

Traditionally, the peak season should now be heating up as cargo volumes have historically risen during summer. However, carriers' decision to void further sailings occurs amid the continuing decline in demand due to the low volume of Chinese imports resulting from Section 301 cargo front-loading, as well as the decrease in Eastbound Trans-Pacific spot rates from Asia to the West Coast.

In addition to canceled sailings, carriers haven't added any new sailings to their 2019 schedule, largely due to consistently falling Trans-Pacific spot rates. As of last month, spot rates from Asia to both U.S. coasts fell another 2.4%.

Many pundits have speculated that there will likely be additional voided sailings announced in the coming weeks, as well as in the 4th quarter, as carriers continue to struggle with Section 301 tariffs and begin to remove ships from service ahead of the IMO's January 1st low sulfur mandate.

Subscribe to our Freight Report for monthly updates and insights on the ever-changing landscape that surrounds the Trans-Pacific market!

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FAA Ban on Air Cargo over Iran

The Federal Aviation Administration (FAA) has issued a Notice to Airmen (NOTAM) banning United States air carriers from flying over the Persian Gulf or Gulf of Oman due to the rising tensions stemming from the June 19th incident involving a U.S. Navy drone being shot down by Iranian forces.

Should other countries follow in the U.S.'s footsteps, the rerouted flight paths could saturate the alternate airspace, leading to air traffic control delays as well as flight cancellations. Additionally, the longer flight paths would require more fuel, resulting in payload restrictions for cargo, passengers and bags.

NOTAMs are issued to warn pilots of potential safety hazards on routes and locations.

At this time, it is unclear how long the ban will be in effect.

Shapiro will continue to monitor the situation and provide updates as they become available. Contact our air specialists with any questions.

SHAPIRO NEWS:

Employee of the Month

As previously featured in Shap Talk, Shapiro has been sharing with you the names of employees who have been recognized for their exceptional efforts and contributions to our Company. At Shapiro, we continually work to develop, challenge, and inspire all of our employees to grow individually and with the Company.

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This month, we would like to recognize **Calvin Barnard, Pricing Analyst...**

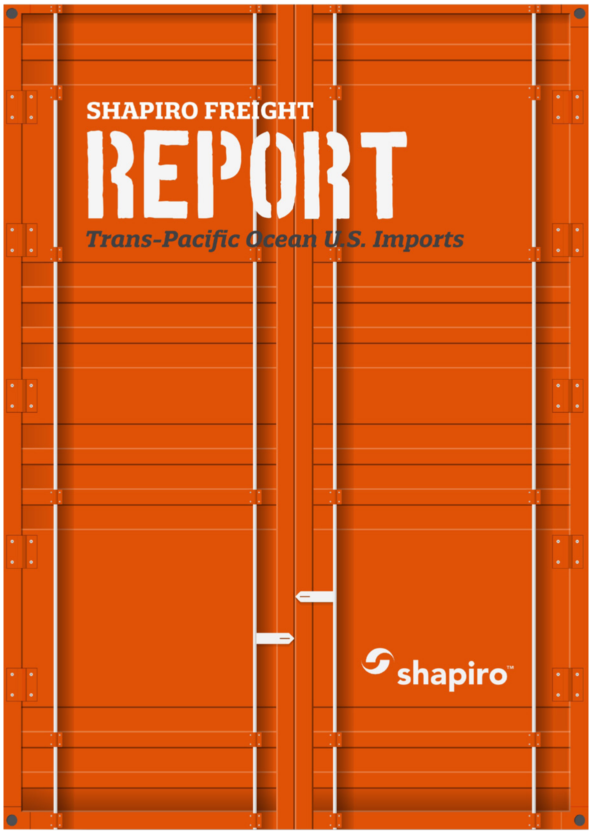
Anyone that has been lucky enough to have Calvin assigned to their rate request knows that he's going to exhaust every option until he finds the best and most creative solution. Calvin has a knack for not only turning the most unmanageable sales requests into workable solutions, but also turning them into regular business. Calvin lives the true spirit of Extreme Ownership every day and everyone in the company appreciates his efforts and his wonderful "can do" attitude.

We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.

Calvin Barnard
Pricing Analyst

Shapiro Freight Report

This high-level, monthly review of the U.S. import freight market provides key insights into the tumultuous world of international shipping. From carrier alliances to labor strikes, Shapiro covers the pertinent information logistics managers need to know. Check back monthly to ensure you don't miss key industry insights!



Goldilocks Equilibrium

Since contracts went into effect in May, the Three Little Bear alliances have been keeping the rate porridge at just the right temperature by adjusting capacity swiftly and often. Fortunately for Goldilocks (and for us in the shipping community), the Bears have not just tightened space to make the market hot, they have also injected capacity to cool the market.

Click here to read more....

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